HONOURABLE SMT.JUSTICE T.MEENA KUMARI

&

HONOURABLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL NO:1700 OF 2000

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JUDGMENT (Per the Honourable Smt. Justice T.Meena Kumari.)

This writ appeal is filed by the A.P.S. R.T.C. aggrieved by the order of the learned single Judge in W.P.No:4887 of 1998, dated 16.8.2000, under which the learned single Judge allowed the writ petition with the observations as indicated therein

The 1st respondent is the writ petitioner. Challenging the order of removal, she has raised an industrial dispute in I.D.No:112 of 1994 and the Labour Court having observed that the irregularities are serious in nature and therefore, the removal of the petitioner from service, is justified, dismissed the said I.D. Aggrieved by the by the same, she filed the present writ petition seeking to quash the award of the Labour Court in I.D.No:112 of 1994, dated 19.11.1997 and consequently, to direct the A.P.S. R.T.C. to reinstate the petitioner into service with full back wages and all other benefits.

The learned single Judge having observed that the finding of the Enquiry Officer, is wholly perverse and does not stand to judicial scrutiny and when once the charges are not proved, the petitioner is entitled for reinstatement with back wages, allowed the writ petition. Having aggrieved by the same, the present writ appeal is preferred by the A.P.S. R.T.C.

Heard the learned counsel.

It is contended by the learned Standing Counsel for the A.P.S. R.T.C. that the charges are grave in nature and the offence in question has been

detected during the course of the audit and the statements of all the witnesses, go to show that the petitioner had sold the tickets, but failed to remit the amount and therefore, the order of the learned single Judge, warrants interference by this Court.

On the other hand, it is submitted by the learned counsel for the petitioner that there was not adequate material to show the entrustment of the tickets to the petitioner as observed by the Labour Court and therefore, the findings of the learned single Judge, do not require any interference by this Court.

We have perused the material available on record and the order impugned.

Admittedly, there are some procedural deficiencies as to the working system of issuing bus passes. Due to this, the charges could not have been proved.

It may be true that due to some procedural deficiencies, the charges levelled against the petitioner, could not have been proved. But, as a matter of fact, the alleged temporary misappropriation has been detected during the course of the audit. Though it is an admitted fact that there is no such procedure and there is no evidence of entrustment of the tickets to the petitioner, so as to fix the responsibility on the petitioner, in view of the admitted fact that the petitioner was working in the Bus Pass Section at the relevant point of time, a duty is caste upon her being an employee of the Corporation, to prove her innocence at the time of the audit or at least during the course of the enquiry. In this background of the matter and considering the fact that the petitioner has lost her job during the year 1994, without expressing any opinion on the merits of the case, We deem it fit to modify the order of the learned single Judge to the effect that the petitioner is entitled for reinstatement, but without back wages. However, it is made clear that she is entitled to the continuity of service for the purpose of retrial benefits.

Subject to the above modification, this writ appeal is disposed of.

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(T.MEENAKUMARI, J)

3rd August, 2005

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(P.LAKSHMANA REDDY, J)

Gurc.

HONOURABLE SMT. JUSTICE T.MEENAKUMARI

&

HONOURABLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL No:1700 of 2000

(judgment delivered by Smt.Justice T.MeenaKumari)

3rd August, 2005